

REMARKS

Claims 1-2, 4-6 and 8-11 are pending in the application and stand rejected.

Claims 1 and 8 are amended to incorporate the features of dependent claims 11 and 10, respectively.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 1, 2, 4-6, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitefield (US 5,282,446) in view of Schneider (US 6,345,600) as evidenced by Garza (5,535,643) in further view of Sato (US 5,941,203).

This rejection is moot as claims 1 and 8 have been amended to incorporate the features of claims 11 and 10, respectively. Accordingly, Applicants traverse the rejection of claims 1 and 8 on the assumption that the Examiner would now reject these claims under 35 U.S.C. § 103(a) as being unpatentable over Whitefield, Schneider, Garza and Sato as applied to claim 1 and 8, in further view of Hayman et al. (US 6,601,557).

Claim 1 recites, *inter alia*:

wherein said gear is operatively placed on the monolithic motion transmission shaft between said at least one oil pump and said at least one vacuum pump.

In this rejection, the Examiner concedes that the previously cited art fails to disclose using a gear operatively placed on the monolithic motion transmission shaft between an oil pump and a vacuum pump. To make up for these deficiencies, the Examiner relies on Hayman. As a reason to modify the references, the Examiner contends it would have been obvious “to provide a sprocket between a vacuum pump and an oil pump in order to provide a pump group driven by an internal combustion engine.”

In particular, the Examiner cites to oil pump 40 or 44, driving gear 48 and vanes 58. However, Applicants submit that the Examiner has failed to establish *prima facie* obviousness because do not believe that one of ordinary skill in the art would place a gear between an oil pump and a vacuum pump based on Hayman's disclosure.

Notably, the vanes 58 relied on by the Examiner as the alleged "secondary pump", are merely used to expel any oil through the top that enters the enclosure through the top. This is nowhere even remotely related to the oil pump and vacuum pump as disclosed by Schneider. There is no inlet separate from an outlet. In fact, this construction (vanes on 58) merely expels oils through the same inlet that receives the oil. Construing these vanes on driving gear 48 as a pump in the same vein as the oil and vacuum pumps disclosed by Schneider or Whitefield is improper. Moreover, even if gear 48 could be construed as a pump – it would not be between a vacuum pump and an oil pump – instead, the gear 48 is itself the pump. In other words, even if the Examiner could construe gear 48 and vanes 58 as a vacuum pump (which it is not) it would only be adjacent an oil pump, not between a vacuum pump and an oil pump.

Thus, Applicants submit the Examiner has failed to establish *prima facie* obviousness because none of the cited references disclose a gear positioned between a vacuum pump and an oil pump.

Further, the Examiner contends that moving the location of the gear is a mere change in the positions of parts. Applicants respectfully disagree. Such a basis for asserting obviousness lacks the requisite rational required after *KSR v. Teleflex*. Moreover, such a modification of either Whitfield or Schneider would require significant structure changes in each corresponding device. For example, the structure of the housings would have to be split and the location of the driving force from the engine would have to be moved. These are additional untaught

modifications that are neither taught nor fairly suggested by any of the cited references. Lastly, these are indicative that this rearrangement involves more than “routine skill.”

Thus, Applicants submit claims 10 and 11 are allowable for at least these reasons.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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